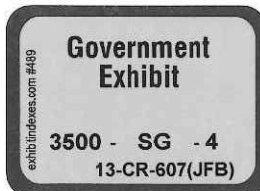


facsimile



Faxed to Kenner attorney, Tom Baker by Gonchar during the May 2009 arbitration...

date 5/30

to Phil

company

fax number 0416-827-0832

phone number

Gonchar handwriting

subject

from Sergei

fax number

phone number

number of pages, including cover sheet

comments

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WESTIN
HOTELS & RESORTS

AMERICAN ARBITRATION ASSOCIATION

DIANA NOLAN, an individual, and
OWEN NOLAN, an individual,

Claimants,

vs.

PHIL KENNER, and individual;
STANDARD ADVISORS, INC., a
Delaware Corporation and STANDARD
ADVISORS, LLC, a Delaware Limited
Liability Company,

Respondents.

NO. 76 148 Y 00223 08 DEAR

**AFFIDAVIT OF
Sergei Gonchar**

I, Sergei Gonchar, being duly sworn upon oath, depose and say:

1. I am over the age of 18 and otherwise competent to execute this affidavit.
2. The contents of this affidavit are based upon my own personal knowledge.
3. I have information in the above-captioned matter and have personal knowledge of the statements contained in this declaration.
4. I have been a professional hockey player for over 15 years. I either personally know, or know of, the following individuals; Owen Nolan, Ethan Moreau, Joe Juneau, Dan Boyle and Brad Lukowich. All of these individuals are also professional hockey players.
5. My home state is Florida although I reside part of the year in Russia. The State of Florida has been my primary residence for the last four years.
6. I have known Phil Kenner for over 10 years. I met him while he was representing other friends of mine who were being assisted by him. At that time, Kenner was acting as a family advisor and these friends had expressed their high level of

satisfaction with his service and commitment to their families. I subsequently worked with Kenner in a similar capacity and have experienced the same high levels of satisfaction with his service and commitments to my family. On many occasions, Phil has flown all over the world to visit me on short notice upon my request.

7. In 2003, I decided to join Phil Kenner at his new Family Office practice at Standard Advisors after he had left his former employer, Assante Global Advisors. I was aware that Phil actually sued Assante Global Advisors in California Federal Court shortly after his departure. I was aware of Phil's status as a licensed advisor when he established Standard Advisors in 2003 and I was also aware that approximately one year later, Phil Kenner gave up his licensed status. I neither had any concerns about this issue then, nor do I feel that it this issue has negatively impacted his ability to act as my Family Advisor now.

8. I am aware that Owen Nolan is suing Phil Kenner and his company, Standard Advisors, in Arizona and is alleging several improprieties by Phil Kenner related to certain investments that I am part of, such as; the Hawaii Investment Group, Diamante Del Mar (managed by Ken Jowdy), Diamante Cabo San Lucas (managed by Ken Jowdy), Eufora, LLC (managed by Tommy Constantine) and the Avalon Airpark Project (managed by Tommy Constantine). I have met with Tommy Constantine personally. After discussions about the Avalon project and Eufora's current business activities, I found Constantine to be an honorable individual who, like Phil Kenner, holds my investments in his companies with the highest level of integrity. Phil Kenner has always made himself available to my family and I and has always addressed any and all of my inquires. As a professional hockey player, not a full time businessman, it is important to me and my family to have access, often face-to-face, with the people who are directly and indirectly involved in my business affairs. To date, I have never seen any indications of any improprieties or wrongdoings by Phil Kenner, his company Standard Advisors, and/or his advice for my family's best interest.

9. In 2008, Kristine Myrick, her former attorney, Jennifer McGrath, and her current attorney, Michael Meeks, in California, contacted me about Phil Kenner and his alleged acts of impropriety and negligence with respect to all of my investments.

10. **DIAMANTE AIR, LLC;** I am currently at odds with Ken Jowdy as a result of his gross mismanagement of an investment that I have made in his airplane company, Diamante Air, LLC. Ken Jowdy and Mark Thalmann, his childhood friend, acting as the Managers of this company, operated a Falcon 10 airplane and a Metroliner III. In the fall of 2008, Ken Jowdy and Mark Thalmann stopped making the monthly loan payments on the two (2) airplane loans under Diamante Air, LLC that they had been making since 2005. Phil Kenner notified me that Jowdy and Thalmann had failed to properly manage and maintain the business and had allowed our investment to become virtually worthless. As a result, this left Phil and I, Sergei Gonchar, with over \$1,000,000 in personally guaranteed debt with the lender for these airplanes. Phil, as well as all of our other partners and I were led to believe by Jowdy, and Thalmann, that the loans for these planes were being paid down aggressively based on the representation that Jowdy's extensive usage of the planes, was generating charter revenue for the business. In fact, Jowdy and Thalmann did not reduce the loan obligation as represented in spite of their extensive use of the airplanes. After numerous requests, neither Phil, our attorney, Paul Augustine, or myself have been able to obtain the bank records, financial reports or tax records from Jowdy or Thalmann to review the status of our investment and where it all went wrong.

11. **HAWAII INVESTMENT GROUP;** I have been an investor in the Hawaii Investment Group since about 2004. In addition to setting up a Line of Credit for the sole use and benefit of the Hawaii Investment Group, I wired \$100,000 to Northern Trust Bank for my equity stake in the Hawaii Investment Group through Little Isle IV, LLC and for the express purpose of making funds available to Phil Kenner, which were to be used at his discretion I was aware that my funds would be used to make

distributions for the company, including but not limited to; Land Acquisition, Travel & Entertainment expenses, Legal Fees, Planning Fees, Payroll, Permitting fees, Loans to outside entities and distributions to other members that would satisfy their monthly Line of Credit payments to Northern Trust Bank. I also understood Phil was the sole signatory on the Little Isle IV, LLC bank account. I have never had any reservations or issues regarding the use of these funds. Phil Kenner has always disclosed the complete and detailed use of these funds with me from time to time and per my every request. We discussed in detail the risks associated with the Hawaii Investment Group and I elected to invest accordingly. Phil also discussed in detail, the merits of the Joint Venture agreement with WWK Hawaii Holdings, LLC prior to me personally signing the Acknowledgement and Acceptance letter Phil provided to me through our attorneys, Larry Markowitz and William Najam in July of 2006, which was prior to my agreement of the Joint Venture. I understand the global markets have caused many issues with the Joint Venture's ability to sell or liquidate the land holdings, but I am confident that the ~\$100,000,000 of land that Phil Kenner was instrumental in acquiring on behalf of the Joint Venture, is more than sufficient to ensure a positive investment result as originally contemplated prior to my involvement. From day one, I have also been made aware of Phil Kenner's significant interest in the Hawaii Investment Group in consideration of his ongoing capital contributions, day-to-day management, personal loan guarantees (including securing the Waikapuna loan with his Arizona residence at the time), his environmental guarantee on behalf of the Joint Venture (so none of the other members would be liable), as well as other contributions.

12. **DIAMANTE CABO SAN LUCAS;** I have been involved in real estate investment projects in Mexico since approximately 2003, specifically, Diamante Del Mar and Diamante Cabo San Lucas. I was aware that Phil Kenner has had an ownership interest in the two Mexico projects operated by Ken Jowdy prior to my making an investment into each respective project. I am also aware that Phil Kenner and Tommy

Constantine had been working diligently over the last two years to resolve certain partnership issues between Ken Jowdy and our investor group, which were related to our investment in Diamante Cabo San Lucas. I understand that approximately eighteen (18) months ago, Tommy Constantine negotiated a global settlement with Ken Jowdy, with the assistance of Jowdy's brother-in-law, William Najam, to a) relieve Ken Jowdy of the \$10m+ in personal debt, b) his management control of the project, and c) any additional personal financial obligations he had to our Hawaiian Investment Group, Glen Murray, Mattias Norstrom, Bob Gaudet, myself and others. I was also aware that Ken Jowdy presented the settlement agreement to Masood Bhatti at Lehman Brothers in New York, who at that time was a Senior VP and was acting on behalf of the lender for the Cabo project. Subsequently, after Jowdy met with his brother in law William Najam and Masood Bhatti, Jowdy decided that he would not follow through with the agreement that he had made and elected to renege on the settlement that Tommy Constantine and Ken Jowdy had negotiated over a six (6) month period of daily negotiations. Furthermore, in spite of being a significant investor and shareholder of Diamante Cabo San Lucas, per an email recently written by Jowdy and sent to Phil Kenner, I as well as other investors, have been prohibited from entering the property. Among other extravagant expenditures and instances of corporate waste, I am aware that Ken Jowdy has utilized various resources of the Diamante Cabo San Lucas project, including the use of personnel who were on the Cabo payroll and other financial resources to pay for several private jet flights around the country. I am also aware that the individual in charge of the Lehman Brothers loan to Jowdy and Diamante Cabo San Lucas, Masood Bhatti, also acquired a secret equity interest in the Diamante Cabo San Lucas project through an entity owned by his Goddaughter named Somerset Properties, LLC. This was unknown to Phil Kenner or myself prior until recently.

13. **DIAMANTE DEL MAR;** I am an investor in Diamante Del Mar (DDM), in El Rosario, Mexico, which Ken Jowdy also acts as the sole Managing Member. I


invested \$500,000 in the project and have not received a single communication in several years, from Ken Jowdy, William Najam or others representing the project regarding the status or development of the project. I also hold a \$250,000 Promissory Note from Ken Jowdy and Diamante Del Mar that has not been paid by Ken Jowdy even though the note matured several months ago. I am aware that the project has not been proceeding with any development in the last three (3) plus years. This is primarily due to the fact that Ken Jowdy has focused his efforts on two unrelated projects, which Phil Kenner and the rest of our investors in Diamante Del Mar and Diamante Cabo San Lucas are not involved.

14. **EUFORA, LLC;** I have been an investor in a few LLCs that have a direct investment in Eufora's Pre-paid card business. I have visited with Tommy Constantine to discuss the merits of the actual business. From day one, I have been aware of the risks associated with a start up company in the payment card industry. I understood that at the time of my first investment in the LLC which held our interest in Tommy Constantine's Eufora, LLC, Phil Kenner was a shareholder in the company. Phil Kenner disclosed his investment in Eufora, LLC prior to my making my investment.

15. I have always been made aware by Phil Kenner that I am able to request outside assistance from attorneys, accountants, or other professionals to audit the strategies that Phil Kenner has assisted in implementing. I have always had direct access to third party advisors involved with the planning decisions for my family, whether I have included Phil Kenner or not in those conversations. Through conversations with other clients of Phil Kenner's over the years, I am aware that this is his common approach with his Family Office clients.

Further Affiant Sayeth Not.

Executed on this ____ day of May, 2009.



Sergei Gonchar

ORIGINAL



2 UNITED STATES GRAND JURY
3 SOUTHERN DISTRICT OF NEW YORK
4 - - - - - x
5 UNITED STATES OF AMERICA :
6 -v- : August 2009
7 PHILLIP KENNER : : Special
8 - - - - - x

10 UNITED STATES COURTHOUSE
11 500 Pearl Street
12 New York, New York 10007
13 March 29, 2011
14 12:33 a.m.

15 APPEARANCES:

16 ARLO DEVLIN-BROWN, ESQ.
17 Assistant United States Attorney
18
19

20 Rivka Teich, R.P.R., C.S.R.
21 Acting Grand Jury Reporter
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23
24
25
26



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T. Stevenson 03/29/11

(Colloquy Precedes.)

(Witness Enters Room.)

(Time Noted: 12:33 p.m.)

TURNER STEVENSON, called as a witness, having been first duly sworn by the Foreperson of the Grand Jury, was examined and testified as follows:

BY MR. DEVLIN-BROWN:

Q Please state your name and spell it for the record?

A Turner Stevenson, T-U-R-N-E-R, S-T-E-V-E-N-S-O-N.

Q Good afternoon. I'm Arlo Devlin-Brown. I'm an Assistant United States Attorney. You've been subpoenaed to testify to this Grand Jury, which is investigating various offenses involving securities fraud, bank fraud, other fraud offenses. I want to advise you that you're not a target or subject of the Grand Jury's inquiry, just subpoenaed as a witness.

Before we get started I make it a practice to advise you of certain rights that you and all witnesses have before the Grand Jury.

A Okay.

Q First of all, you have the right not to incriminate yourself, meaning if a truthful answer to a

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question would tend to incriminate you you have the right to refuse to answer that question. Do you understand that?

A Yes.

Q You do have a right to an attorney to represent you. That attorney cannot be in the Grand Jury room. Do you have an attorney?

A Yes, outside.

Q What is his name?

A Ronald Richards.

Q If you need to consult him to answer or to get advice on a question you can feel free to take a break and ask to consult him, okay?

A Okay.

Q Do you understand that you're required to give truthful, non-misleading information to the Grand Jury?

A Yes.

Q Do you understand that if you give false or misleading information intentionally you could be prosecuted for obstruction of justice, perjury or false declaration to a Grand Jury?

A Yes.

Q Do you understand everything I've told you so far.

A Yes.

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Q We'll proceed.

Let's start with a little background about you.
Where you were born?

A I was born in Port Alborne, British Columbia,
May 18, 1972.

Q What country is that?

A Canada, sorry.

Q What country are you citizen of?

A Just Canada. I reside in the United States, I
have my greencard here.

Q What is your current job here?

A I'm an assistant hockey coach for the Seattle
Thunderbirds.

Q Is that NHL?

A Minor league team for players that are drafted
out of there to go to the NHL.

Q Before you took this coaching position were you
a professional hockey player yourself?

A For 13 years I was.

Q Played on the NHL?

A Yes. I played Montreal Canadians for seven
years. I played in New Jersey for four years. And my
last year was for the Fliers.

Q Do you know someone Phil Kenner?

A I do, yes.

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2 Q When did you first meet Mr. Kenner?

3 A Probably first time when I got traded to New
4 Jersey, the season of 2001, 2002, 2001, when I was
5 playing for the Devils.

6 Q How did you meet him?

7 A Just through players that I played with, Mark
8 Recky, who I played with, knew, and trusted very well.
9 I had to change my financial stuff because you can't
10 have that in Canada. I was moving. He recommended Phil
11 Kenner. I went out at different times in Phoenix out
12 there, for the first time dinners before feeling
13 comfortable to go with him.

14 Q When you say "go with him" what did you have
15 him do with you?

16 A Financial, get my, take care of my kids' stuff,
17 college education, budget, stuff where my wife and I
18 could put our money away, live a proper life, a proper
19 life. We were making good money, you make good money as
20 an athlete. We wanted to do things to make it long-term
21 and not live an extravagant lifestyle. We don't live
22 beyond our means. We don't own fancy cars, things like
23 that.

24 Q You hired him to do this work?

25 A Yes.

26 Q What kind of compensation did you have with

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him?

A He gets just depending on what the portfolio would do, good or bad, anything he invested in or that he would oversee. It would basically be around 35, four different quarters.

Q Thirty-five?

A \$3,500 per quarter, stuff like that.

Q Based on the amount that he was managing for you?

A How it is set now, that's basically what it is right now, a set amount that he takes for working for us.

Q When you first signed on with him what year would this have been, 2001?

A I would say '01, '02.

Q Where had your money been banked before you signed on?

A Most of it was, we just had it in the bank in Nova-scotia in Montreal or CBC Bank in Montreal, Canada.

Q When he started managing, what accounts did you set up?

A Personal bank accounts. Then we had Schwab where we have cash market accounts. The rest of the stuff is in different stocks.

Q Which personal bank accounts, what banks did

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7

you use for that at first?

A Our main one here -- in New Jersey when I was here, I can't remember the name of the bank here. The main one we use is Bank of America, is what we kept in Edmonton. In the summer I've been back there since '95; 96. My wife and I lived there at various points; when the season is over we go back there.

Q Aside from stocks and bonds did Mr. Kenner recommend any -- in your history with him -- purchases of particular companies, stakes in particular companies, and/or real estate ventures?

A Real estate, yes; companies, no. I'm not invested in companies.

Q Did he recommend some to you from time to time?

A Yes, he did. He would ask me if I'm interested in an equipment company, I think. I would have been a later arrival than some players that have heard into companies, but nothing that I've agreed on to, just land.

Q Like Impact, have you heard of that company?

A No.

Q Did you consider potentially investing in some of the companies he was suggesting and conclude it was not for you, or you were not interested in doing that?

A A little of both at the time. I guess it was

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8

different on feeling what percentage of what pay scale I was making at the time as playing a professional athlete. There are different amount of money, whether when at that time I felt this amount of money, I had made enough money in my career savings for playing from '94, '95 the dollar amounts of hockey never took off until later 90s when all players -- when I wasn't on the upper-end of the pay scale of a player. So that might have been something to do with it. I didn't have enough money at the time or feel comfortable giving away that money to do something like that.

Q Understood. What about the real estate, how many real estate ventures did you invest in that Phil Kenner had recommended?

A The one, the first one, would have been Hawaii, that I put \$100,000 into. Then the other one would have been Cabo San Lucas.

Q Do you remember the order of those investments?

A Order meaning?

Q Which one first?

A Hawaii.

Q When did you put the money into Hawaii?

A Probably not long after that, I would say, I would say after 2002, 2003 in there.

Q You think that early?

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9

1 A I think, yeah.

2 Q What kind of material did you receive, if any,
3 before you decided to make that investment?
4

5 A Material meaning?

6 Q Documents, prospectuses, something describing
7 the project, how the money would be used?

8 A Never saw anything how the money would be used.
9 I've seen pictures, land, what we were going to do, what
10 they are purchasing, what it's going to look like. Then
11 I agreed on to it, that was my decision.

12 Cabo was a little different. I've been there.
13 So I was there a few times to see actually what it is
14 and what it can be.

15 Q We'll stick with Hawaii for now. You put in
16 \$100,000?

17 A Yes.

18 Q What made you think it would be a good
19 investment since you didn't review materials? Is it
20 things Kenner told you about?

21 A I don't think, it's not that, no. When I got
22 into land I think you -- look back now, it's different,
23 different world real estate. I had enough money. I
24 don't think that, I don't say enough money, it was,
25 \$100,000 at that time was a small percentage, something
26 I believed in that could do well and make a lot of money

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10

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2 in a great place like Hawaii. It wasn't learned in any
3 way or so, that was just my own personal opinion of what
4 I saw.

5 Q What were they supposed to do with this project
6 in Hawaii?

7 A Get title of the land and turn it into some
8 sort of development, hotels, something along those
9 lines.

10 Q What was your \$100,000 buying you?

11 A Probably a small percentage.

12 Q In addition to the Hawaii projects mentioned
13 San Lucas, tell us about that investment.

14 A That was one I decided -- I wasn't in the other
15 ones -- that I went down there. I saw the property. I
16 saw before the purchase was made. I want to say I was
17 in there, I saw the pictures maybe '04, '05 I went in
18 there to see it.

19 When I retired my last year was 2005/2006 in
20 Philadelphia I went down there. When there was a golf
21 tournament I saw the course and the possibility, which
22 of course, there is there. That this could be very
23 good. Because I've been to Cabo San Lucas before and
24 saw the potential of what that investment could be.
25 That to me 200,000, much like the 100,000, was a small
26 percentage of my wealth. That I wasn't concerned about

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11

1 the risk. Obviously there is a risk of buying land in
2 another country, I understand that. I saw what this can
3 be and still can be today. I think it's great piece of
4 property in a very popular place in the world.
5

6 Q What was the \$200,000 supposed to go for?

7 A Same percentages, we had up to \$200,000 to make
8 the property work until there was a bank loan that was
9 coming. Lehman Brothers came in eventually and we
10 waited for that loan to buy the property, to buy the
11 project, a small percentage.

12 Q Did you understand whether or not Phil Kenner
13 had any interest in the project; in other words, he was
14 like one of the owners or he would profit from your
15 investment at all?

16 A I didn't, not at the time. I didn't -- are you
17 asking if that is a factor of why I got into it?

18 Q I'm asking whether you understood he had any
19 interest in it at the time?

20 A No, at the time I didn't.

21 Q Did you learn he had an interest at some point?

22 A Yeah, I would say that, yes.

23 Q How did you learn he had an interest?

24 A Probably from him, talking with Phil. But also
25 talking with Mr. Jowdy as well. Ken Jowdy more so
26 because I've had dealings with him, I've dealt with him

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12

1
2 on a personal level with different issues that the other
3 guys haven't, that I've had contact with him.

4 Q Mr. Jowdy?

5 A Yes.

6 Q How many times have you been down to San Lucas
7 to see the property?

8 A Two times, once when I went there for the golf
9 tournament. Another time when I went with, I brought my
10 family, my wife and kids, to see the place.

11 Q The property is being developed as condominiums
12 or timeshares?

13 A At the time the original was to build a golf
14 course, and there is a golf course there. And then
15 build homes, different condos, stuff like that, vacation
16 resort kind of place.

17 Q Has the resort only been built or only the golf
18 course?

19 A Only the golf course.

20 Q What is the status of the project?

21 A Sitting there. The players haven't, we, the
22 loan is still there, as far as I know from Donza Bank,
23 who took over the Lehman loan. That's the order it goes
24 in. Not much is going on there.

25 Q At the time you invested in the San Lucas
26 project, did you learn anything, did you know anything

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13

1 about an earlier project that Mr. Jowdy had been
2 managing elsewhere in the Baha?
3

4 A I knew they, I wouldn't say I knew at the exact
5 time that I invested the 200,000, I wouldn't say of the
6 north project I learned, but I wasn't invested in that.

7 Q You learned after the fact?

8 A Yes.

9 Q Have you learned after the fact that they were
10 having major problems with the north project?

11 A Yes. After they had done that, I think they
12 learned that, my thought was, we kind of get everyone
13 into Cabo. I didn't pay that much attention in it. I
14 wasn't invested in it at the time; still ain't.

15 Q Same guy running both projects, Jowdy?

16 A Yes.

17 Q Would have you liked to have known at the time
18 you were making the decision about whether to put money
19 in San Lucas that the Jowdy project in the north of
20 Mexico had gone no where?

21 A I may have known, like, I don't, at the exact
22 time I don't remember knowing the north project was not
23 bad. I probably if you would told me it that was bad at
24 the time I still would have made; from what I've seen,
25 even though he was managing, from what I saw at the land
26 I still think I still probably would have made that

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14

1
2 decision.

3 Q Are you saying even if you had known the
4 manager who you were entrusting the \$200,000 was not
5 doing much on the project to the north, you still would
6 have that, it wouldn't have been relevant to you as an
7 investment?

8 A It would have been relevant, but I've also,
9 like I said at the beginning, I don't believe the
10 percentage I was putting in of 200,000 -- I think that's
11 a fair question when I look back now. But at the time
12 when I've seen, I still believe today that the property
13 is going to be, it's going to be phenomenal whatever the
14 end result is. That's going to be a beautiful place,
15 because Cabo is just such a popular place to go. I
16 still think it's going to be a great investment. I
17 still think that even everything we've gone through.

18 Q Do you have any accounts at Northern Trust
19 Bank?

20 A No.

21 Q Do you have a line of credit there as far as
22 you know?

23 A No.

24 Q Did anyone ever ask you to open a line of
25 credit?

26 A No.

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15

1
2 Q Did anyone suggest to you to increase your
3 investment?

4 A No.

5 Q Do you know other players who have lines of
6 credit that were used to fund any of these real estate
7 deals?

8 A No, not that I'm aware of.

9 Q Are you party to any litigation or lawsuit
10 involving any of these projects?

11 A We had one involving Ken Jowdy dismissed
12 without prejudice.

13 Q Do you know why it was dismissed?

14 A No.

15 Q Were you deposed in that lawsuit?

16 A No.

17 Q Were they seeking to depose you, as far as
18 you're aware of?

19 A Not that I've aware of.

20 MR. DEVLIN-BROWN: I propose excusing the
21 witness for a moment. If you won't mind waiting
22 in the hall. We may have more questions for you,
23 we may not. In any event, it's possible at some
24 future date the Grand Jury will wish to continue
25 your Grand Jury testimony. We'll advise your
26 attorney.

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16

May I ask the witness be excused.

THE FOREPERSON: Yes.

(Witness Excused.)

(Time Noted: 12:52 p.m.)

(Colloquy Follows.)

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1 T. Stevenson 03/29/11 17

2 (Colloquy Precedes.)

3 (Witness Enters Room.)

4 (Time Noted: 12:57 p.m.)

5 THE FOREPERSON: I remind you, you are still
6 under oath.

7 BY MR. DEVLIN-BROWN:

8 Q The Hawaii project is called Little Isle IV; is
9 that right?

10 A If that's the name they use, I just call it
11 Hawaii.

12 Q When you put up the \$100,000 for Hawaii, did
13 you have any understanding of whether the money could be
14 used to pay for the Mexico project or was it just
15 supposed to go to the Hawaii project?

16 A In the beginning it was supposed to go to
17 Hawaii. Then I saw they needed, the group of us got
18 together, we have this piece of land that's available
19 for purchase in Mexico that we need too wait on or get
20 funds on to transfer as a group like one big blanket to
21 get money into Cabo and pay for that land to hold it
22 until the loan came.

23 Q So are you saying you agreed to transfer some
24 of the money from the Hawaii project to the Cabo
25 project?

26 A I would say that, yes.

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18

2 Q Who made that decision?

3 A I think all of us as a group.

After Kenner
conference calls in
2004...

4 Q What do you mean "as a group", who is the
5 group?

6 A All the guys who were invested in it.

7 Q All the guys who were invested through
8 Mr. Kenner, his clients?

9 A If all of them, yeah, and other guys that were
10 invested in this; Mr. Jowdy I'm not sure.

11 Q Let me show you what's been marked 110A.
12 Before I do, do you remember getting reports or anything
13 from Mr. Kenner about the status of Little Isle IV the
14 Hawaii project?

15 A No.

16 Q Take a look at this and see if you remember
17 ever getting anything like this.

18 (Witness reviewing document.)

19 A I think I remember seeing that.

20 Q How do you remember getting it?

21 A Through a fax maybe. Seeing these actual
22 numbers that looks familiar to me.

23 Q Okay. Is he still your financial adviser?

24 A He is.

25 Q Roughly how much money is he managing for you?

26 A Probably five, 600,000.

1 T. Stevenson 03/29/11

19

2 Q Does that include the money tied up in these
3 real estate ventures like 300,000?

4 A No, that would be more than 900,000.

5 MR. DEVLIN-BROWN: May I ask the witness be
6 excused.

7 THE FOREPERSON: Yes.

8 (Witness Excused.)

9 (Time Noted: 1:00 p.m.)

10 (Colloquy Follows.)
11
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C E R T I F I C A T E

STATE OF NEW YORK)

)

COUNTY OF NEW YORK)

I, RIVKA TEICH, hereby certify that
the foregoing is a true and accurate transcript,
to the best of my skill and ability, from my
stenographic notes of this proceeding.



Rivka Teich, R.P.R., C.S.R.

Acting Grand Jury Reporter



DEPARTMENT OF THE TREASURY
Internal Revenue Service
Criminal Investigation



Memorandum of Interview

Investigation #: 1000259846 Location: FBI Office
Investigation Name: Phillip Kenner 135 Pinelawn Rd.
Melville, NY 11747
Date: September 10th, 2014
December 15, 2014
Time: Approx. 10:50 AM
Participant(s): Vincent Tesoriero, Witness
Joshua R Wayne, Special Agent, IRS
Matthew Galioto, Special Agent, FBI

← After the Kenner indictment

On the above date and time Special Agents Wayne and Galioto met with Vincent Tesoriero (Tesoriero). Agents met with Tesoriero on two separate occasions. Unless otherwise noted, all statements were stated to the Agents on September 10th 2014.

1. Tesoriero resides at [REDACTED] His date of birth is [REDACTED]
[REDACTED] His cell phone number is [REDACTED] and his home
phone number is [REDACTED]
2. Tesoriero met John Kaiser when they worked together as housing police officers in New York. Kaiser went on to be a Suffolk County Policeman and Tesoriero went to work for the Fire Department in New York (FDNY).
3. Tesoriero retired from the FDNY in May of 2004. Tesoriero received a lump sum payment of \$700,000 from Victim's Compensation's Fund regarding the September 11th, 2001 attacks on the World Trade Center.

SAG HARBOR DEAL

4. Kaiser mentioned to Tesoriero about an investment property in Sag Harbor, New York. Kaiser had a \$70,000 retainer on the property. Chris Manfredi, Tom Milana, John Kaiser and Tesoriero met to discuss the property. The purchase price of the property was \$700,000. Tesoriero and Milana each put \$350,000 for a total of \$700,000 for the purchase of the Sag Harbor property.

This is the first time Tesoriero invested with John Kaiser (Stated on 12/15/2014).

5. Kaiser used \$30,000 of the retainer money for the closing costs of the Sag Harbor Property. Kaiser withdrew the remaining \$40,000 from the original retainer. Tesoriero knows this because it was in the closing documents.
6. Manfredi and Kaiser were going to fund the build for the Sag Harbor property. Kaiser's brothers and Tesoriero were going to build the property.

not aware that Berard was involved in the Ledbetter deal -- only Kenner...

7. Kaiser gave Tesoriero \$50,000 back out of the \$350,000 originally put in the Sag Harbor deal. The \$50,000 was paid back by one \$25,000 check given to Tesoriero and Kaiser paid \$25,000 to build a retaining wall at Tesoriero's home.

8. Kaiser told Tesoriero that they needed to get Manfredi out of the Sag Harbor deal and that PHIL KENNER and Bryan Berard were coming in the deal. In November, 2006 Ledbetter is created (Ledbetter would own Sag Harbor) The Sag Harbor deal was closed on with KENNER, Berard, Kaiser and Tesoriero. Tesoriero stated he was not at the closing. Tesoriero found out some time after the closing that Berard came up with the money for the closing and KENNER never put money in the deal. KENNER's role in the Sag Harbor deal would be to raise money to build the property. At the time of the closing Tesoriero did not know where money came from. Thomas Milana was bought out of the Sag Harbor deal. Tesoriero signed documents that stated he was 25% owner in the Sag Harbor deal.

Kenner had not met Tesoriero at the time of the October 2006 deal...

9. Tesoriero stated that he has never spoken to Berard. Tesoriero was under the assumption from the start of the "Ledbetter deal", Berard and KENNER were coming into the deal. Tesoriero received the Ledbetter agreement from only Kaiser.

10. Kaiser told Tesoriero that by the time they sell, Tesoriero would make \$300,000 to \$400,000 on the Sag Harbor deal. Nothing ever happened with the Sag Harbor property. Kaiser told Tesoriero that he had a buyer and that Berard and himself (Kaiser) wanted to sell.

11. The Sag Harbor property was sold for \$740,000. For the sale of the property Tesoriero got \$150,000 check and a \$93,000 check. Tesoriero took a loss because of the 3 closings and the tax on the property.

HAWAII PROJECT

12. In the summer of 2006, Kaiser asked Tesoriero for a loan from Tesoriero. Tesoriero believed the loaned money would be used to buy property in Hawaii. Tesoriero wired \$100,000 from his account to an account he believed was in the name Big Isle Ventures. Tesoriero was not aware of who had control of the account. Tesoriero has no documentation of this other than the wire. For the loan, Tesoriero would get 10% interest. Tesoriero believes he got \$10,000 from Kaiser in either cash or check.

On December 15th, 2015, Tesoriero's recollection was refreshed when he was shown a wire transfer on 8/8/2006 for \$150,000 from Tesoriero's account at Sovereign Bank to an account called Kau Holdings at Northern Trust. The investment was for a Hawaii project. The money was to be used to purchase land and develop property in Hawaii. Tesoriero's friend Jim Cody also invested in the Hawaii project.

Kaiser and Berard fully recovered their investment after the fraudulent sale by Kaiser and Berard...


Kenner was also not repaid for his \$28,500 tax payment in 2010 and/or the 25% equity Kaiser and Berard fraudulently stole from Kenner in 2011 with a forged signature on a fabricated document...all in EDNY evidence and turned over early and specifically in BINDER-### from the government as evidence they planned early to use against Kenner until they realized that their two STAR witnesses had been part of multiple real estate frauds against Kenner and many others...since they began their Mexico employment...

13. Tesoriero's parents invested \$150,000 with Kaiser to build properties. \$150,000 for an 18 month investment. Tesoriero's parents got back \$5,000. Tesoriero gave his parents \$150,000 because he told his parents to invest with Kaiser. The \$150,000 Tesoriero paid back to his parents came from money from the sale of the Sag Harbor property.

On December 15th, 2014, Tesoriero further recalled that Tesoriero's parents gave Kaiser a check for \$150,000. Tesoriero stated that the money was a loan and Tesoriero's parents were to receive 10% interest for 18 months. (On the memo line of the check it states "investment")

14. Kaiser told Tesoriero, instead of Kaiser giving Tesoriero his \$100,000 back for the loan, Kaiser would sell Tesoriero [REDACTED] to Tesoriero and Kaiser would take \$100,000 off the purchase price. Prior to purchasing the property, Tesoriero lived at [REDACTED] and was paying Kaiser's mortgage on the property. In around October of 2008, Tesoriero bought the property from Kaiser for \$300,000. The original sale price of the property was \$400,000. Kaiser took \$100,000 off the purchase price for repayment of the loan. Tesoriero took a \$300,000 mortgage from Wells Fargo for the purchase of [REDACTED]
15. Kaiser saw KENNER at Kaiser's 40th birthday party. He also saw KENNER at Hermoso Beach, and stayed at KENNER's house when Tesoriero did work on the Paradise Valley house (an investment property for Kaiser). Tesoriero did not invest in the Paradise Valley house.
16. On December 15th, 2014, Tesoriero stated that he was never asked to invest in the Palms Condos in Las Vegas, NV.

I began preparing this memorandum on December 15th 2014, after refreshing my memory from notes made during and immediately after the interview with Vincent Tesoriero.


Joshua R Wayne
Special Agent

Government
Exhibit
3500-WR-2
13-CR-607(JFB)

telephonic

(BR) Bill Ranford - William E. Ranford

Scott R.
Matt G.

Bill R.

DOB = [REDACTED]

SSN = [REDACTED]

7/25/12

left msg
for (BR)

New Westminster, B.C.

CA Kings
last 7 yrs

call to 7/30/12 - no answer; didn't leave msg

all to 8/2/12 - left msg for (BR)

At EDNY -- Ranford claimed to not
know about the following transfers

See Kenner 2008
text requests to
Constantine and
Gaarn re --
paperwork

09/7/12 - telephonic

Eufora - investment

Phil Kenner told (BR)
about

- credit card co.
- out of Mexico (PK)
- good investment
- bunch of (PK) clients
MHC players in

(BR) Schwab
acct
to
Eufora

7/2008 = \$200k

get Eufora up + running
for distribute credit cards
just used for Eufora

(BR) never met Tommy
Constantine

(BR) asked for paperwork many times throughout yrs from (TC)
(TC) held out on paperwork for Eufora via emails

(PK) - then Q'd (TC) - never produced paperwork

Evidence altered from truth
 ED story just like Gaarn Eufora
 transfer date change from 2005
 (original) to 2007 (see 3500-TG-1-r
 -- altered)

total ~~~\$300k~~ in Eufora - several times to Eufora
 - 2009 - \$100k - Feb.
 \$100k - May

= any \$ from (BR) acctr to be used for Eufora

= never told (BR) & used to buy-out other investors
 I would never do that - (BR)

\$300,000 corroborate the truth,
 yet Ranford refuted it vehemently
 during the trial -- claiming the
 notes were WRONG.

GSF

explained: Towdy issues in Mexico
 - stuck financially with legal bills
 need help financially

(BR)
 never
 invested
 in
 Mexico

(BR) - \$300k gave to GSF
 July 2009

\$ to GSF
 in exchange for
 the \$300k

(BR) - supposed
 to get a
 piece of
 Mexico; Nothing
 for putting \$
 in GSF

(BR) - gets updates from (PK)
re: Towdy issues / Mexico

(BR) - knew (TC) involved in GSF - not sure what role

= (TC) now on side w/ Towdy

(BR) - did not get emails stating (TC) stole \$ & how GSF
\$ spent

? - if knew \$ spent on other expenses - not Tandy issues

(BR) - would not put \$ in GSF i.e.,
hangars in AZ
airplanes
Etcera

(BR) - never went to Mexico properties

(BR) speaks to (TE) currently; still his financial advisor

spoke to briefly
Bryan Bierard

END

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

PHILLIP A. KENNER, TRUST) NO. CV2012-055576
BENEFICIARY, THE SHANGRI-LA)
TRUST 1999,)

Plaintiff,)
vs.)

JOHN KAISER, TRUSTEE, THE)
SHANGRI-LA TRUST 1999;)
JOHN KAISER, a married man;)
ELIZABETH KAISER, a married)
woman; JOHN AND JANE DOES I-VII,)

Defendants.)
JOHN R. KAISER, a married man as)
his sole and separate property;)
BRYAN BERARD, an unmarried man,)

Counterclaimants.)
vs.)

PHILIP A. KENNER, a single man,)
Counterdefendant.)

TYSON and KATHY NASH, husband)
and wife; DARRYL SYDOR; JERE)
LEHTINEN; DIMITRI KHRISTICH;)
WILLIAM RANFORD,)

Intervenors.)

at 11-12 and 27

DEPOSITION OF WILLIAM RANFORD

Phoenix, Arizona
September 17, 2014
8:37 a.m.

Prepared for: BARTLOWE REPORTING SERVICES
357 North Fourth Avenue
Suite B
Phoenix, Arizona 85003
(Copy) (602) 254-9116

BY: CRYSTAL BARTLOWE, RPR
Arizona Certified Reporter #50198

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 2

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I N D E X

W I T N E S S :

Page

WILLIAM RANFORD

Examination by Ms. Lavonier

4

E X H I B I T S

Deposition
Exhibit

Description

Page

1 March 14, 2011 letter to Ronald Richards
from Robert L. Lane, 5 pages

9

2 Charles Schwab Institutional Statement
for William Ranford, Statement Period
May 1-31, 2010, page 5 of 9

23

3 United States District Court Indictment
against Phillip A. Kenner and Tommy C.
Constantine, 29 pages

26

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 3

1 THE DEPOSITION OF WILLIAM RANFORD,
2 witness herein, was taken pursuant to Notice and the
3 Arizona Rules of Court before Crystal Bartlowe,
4 Arizona Certified Court Reporter No. 50198, at the
5 Law Offices of THE TRAVIS LAW FIRM, PLC, 10621
6 South 51st Street, Suite 103, Phoenix, Arizona, on
7 September 17, 2014, commencing at 8:37 a.m.

8 * * * *

9 APPEARANCES:

10

11 ON BEHALF OF DEFENDANTS/COUNTERCLAIMANTS:

12 THE TRAVIS LAW FIRM, PLC
13 10621 South 51st Street, Suite 103
Phoenix, Arizona 85044
14 BY: Melissa S. Lavonier, Esq.
(480) 219-3633

15

ON BEHALF OF INTERVENERS:

16

BAKER & BAKER
17 5050 North 8th Place, #10
Phoenix, Arizona 85014
18 BY: Thomas M. Baker, Esq.
(602) 279-1644

19

20 ALSO PRESENT:

21 Tyson Nash

22

23

24

25

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 4

1 Phoenix, Arizona
2 September 17, 2014
3 8:37 a.m.

4 WILLIAM RANFORD,
5 called as a witness herein, having been first duly
6 sworn by the court reporter, was examined and
7 testified as follows:

8
9 EXAMINATION

10 BY MS. LAVONIER:

11 Q. Could you please state your name for the
12 record.

13 A. William Ranford.

14 Q. Have you ever been deposed before?

15 A. Never.

16 Q. I'm gonna ask you some questions today. If
17 you answer those questions, I'm gonna assume that you
18 understand the question that's been asked. Is that
19 fair?

20 A. That's fair.

21 Q. Please answer these questions with audible
22 statements, as our court reporter here can't
23 understand shrugs or nods. Is that fair?

24 A. Yes.

25 Q. If you need a break, I'd just ask that you

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 5

1 answer the question that I'm asking, that's pending,
2 and then we'll take the break. Is that fair?

3 A. Yes.

4 Q. How old are you?

5 A. 47.

6 Q. What's your profession?

7 A. Professional hockey coach.

8 Q. Are you married?

9 A. Yes.

10 Q. Do you have any children?

11 A. Yes.

12 Q. How many children do you have?

13 A. Two.

14 Q. Where do you currently live?

15 A. Los Angeles.

16 Q. And what's your address?

17 A. 13714 Judah Avenue, Hawthorne, California,
18 90250.

19 Q. And how long have you lived there?

20 A. I rent.

21 Q. About how long have you lived there?

22 A. One year.

23 Q. In 2009 what's the name of the financial
24 institutions where you were banking, where you had
25 money located?

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 6

1 A. Schwab.

2 Q. Did you have money at any other
3 institutions in 2009?

4 A. Yes.

5 Q. And what were the names of those
6 institutions?

7 A. It would have been TD Canada Trust.

8 Q. And anywhere else?

9 A. I believe Asante.

10 Q. And any other locations?

11 A. Not that I can think of right now.

12 Q. And in 2010, what financial institutions
13 did you have money?

14 A. The same.

15 Q. And in 2011?

16 A. The same.

17 Q. And nothing different in 2010 or 2011?

18 A. Not to my recollection.

19 Q. How do you know John Kaiser?

20 A. Just that he's involved in real estate that
21 I invested in.

22 Q. How long have you known him?

23 A. I've never met him.

24 Q. You've never met him. So you've never
25 spoken with him?

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 7

1 A. No.

2 Q. Do you know Bryan Berard?

3 A. I know who he is, yes.

4 Q. But you've never met him?

5 A. Technically, no.

6 Q. Could you explain that answer, please.

7 A. I play hockey against him, so -- he was
8 never on my -- he was never a teammate.

9 Q. So you never had any conversations with him
10 off the hockey rink?

11 A. No.

12 Q. How do you know Phil Kenner?

13 A. He was my financial advisor.

14 Q. When did he become your financial advisor?

15 A. It would have been probably the late '80s.

16 Q. Did you know him before then?

17 A. No.

18 Q. Is he still your financial advisor?

19 A. Yes.

20 Q. How did you meet Phil Kenner?

21 A. Through Derek Sanderson when I played for
22 the Boston Bruins.

23 Q. So he provided you with financial advice?

24 A. Correct.

25 Q. Are you aware of the Global Settlement

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 8

1 Fund?

2 A. Yes.

3 Q. What's your understanding of the purpose of
4 the Global Settlement Fund?

5 A. It was -- my understanding is it was for
6 money invested in Mexico.

7 Q. You were investing money in Mexico through
8 this Global Settlement Fund? Is that what you're
9 saying?

10 A. Yes.

11 Q. So the money that was going into the Global
12 Settlement Fund was to be distributed to Mexico?

13 A. Correct.

14 Q. Did you contribute money to this Global
15 Settlement Fund?

16 A. Yes, I did.

17 Q. When did you contribute money?

18 A. I can't recollect the actual date.

19 Q. Do you remember how much you gave to the
20 Global Settlement Fund?

21 A. I don't recollect, no.

22 Q. Do you know from which financial accounts
23 you would have sent money to this Global Settlement
24 Fund?

25 A. I believe that would have been -- it would

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 9

1 have either been Northern Trust or Schwab at that
2 time.

3 Q. Do you know who was controlling the Global
4 Settlement Fund?

5 A. Who was controlling it?

6 Q. Yes.

7 A. Not exactly.

8 (Deposition Exhibit No. 1 was marked for
9 identification.)

10 Q. BY MS. LAVONIER: Have you seen this
11 document before?

12 MR. BAKER: Was this disclosed prior to
13 today?

14 MS. LAVONIER: I don't believe so.

15 MR. BAKER: Okay. Is there a reason we're
16 going into the Global Settlement Fund?

17 MS. LAVONIER: There is.

18 MR. BAKER: Relevant to this case?

19 MS. LAVONIER: Yes, there is.

20 MR. BAKER: Okay. We'll see how you tie it
21 together.

22 Q. BY MS. LAVONIER: Have you seen this
23 document before?

24 A. I don't recollect seeing this document
25 before.

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 10

1 Q. What's the date on this document?

2 A. March 14th, 2011.

3 Q. And who is the letter to?

4 A. Mr. Richards.

5 Q. And who is the letter from? If you would
6 read the name at the top, please.

7 A. Robert Lane.

8 Q. Thank you.

9 Have you ever received an accounting of how
10 the money in the Global Settlement Fund was used,
11 similar to the accounting in this document?

12 A. I have not.

13 Q. Weren't you a little bit curious about how
14 your money was being spent?

15 A. Yes.

16 Q. And you never asked questions about how
17 your money was being spent?

18 A. Yes, I did. I'm, I'm familiar with Eufora
19 in this Global Settlement Fund. I mean, I'm very
20 familiar with the -- with Eufora, but --

21 Q. You just stated that the money was to be
22 used for projects in Mexico?

23 A. Well, that's what I thought it was, but I'm
24 incorrect. Now that I see the name Eufora, I
25 understand that that's what that was for, and I was

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 11

1 familiar with the information on that, yes.

2 Q. So now it's your understanding the money
3 was for Eufora?

4 A. Yes. Correct.

5 Q. Okay. If you could turn to the third page,
6 please. And do you see the entry on June 5th of 2009?
7 Is that your name there, William Ranford?

8 A. Yes, it is.

9 Q. And how much does it say was credited at
10 that time?

11 A. 100,000.

12 Q. And do you see the entry on June 12th of
13 2009?

14 A. Yes.

15 Q. And is that also your name?

16 A. Yes, it is.

17 Q. And how much does it say that you received?

18 A. That I received?

19 Q. Yes. Do you see the \$100,000 debit there?

20 A. Yeah. Yes.

21 Q. Okay. And then if you could flip to the
22 next page, please, at the top. Do you see the entry
23 dated July 3rd -- or July 13th of 2009?

24 A. Yep.

25 Q. And is that your name as well?

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 12

1 A. Correct.

2 Q. And that's \$300,000 that you deposited?

3 A. Yep.

4 Q. Okay. And if you could go back to the
5 other page, please. There's an entry on June 23rd of
6 2009. Could you read that name next to that for me,
7 please.

8 A. June 23rd?

9 Q. Yes. Thomas Baker?

10 A. Yeah, Thomas Baker.

11 Q. Is it your understanding it's the same
12 person as is your attorney in this case?

13 A. Yes.

14 Q. So you spoke with Phil Kenner about what
15 was occurring in the Global Settlement Fund?

16 A. Yes.

17 Q. And what did he tell you?

18 A. Regarding the fund? The funds were going
19 to this Eufora project.

20 Q. And you never received a final accounting?

21 A. I did not, no.

22 Q. When did you speak with Phil Kenner about
23 this money?

24 A. The last time I would have spoke to him
25 about the Eufora would have been probably 2013, I

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 13

1 believe.

2 Q. Do you have an understanding what his role
3 was in this Global Settlement Fund?

4 A. What his role was?

5 Q. What Phil Kenner's role was in the Global
6 Settlement Fund?

7 A. I don't know exactly what his role was in
8 the -- in the Global Settlement Fund, no.

9 Q. When did you first learn about this house
10 on Golf Drive in Paradise Valley, Arizona?

11 A. When Phil Kenner approached me about the
12 property to see if I was interested in helping out
13 with some funding as they were unable to finish the
14 project.

15 Q. And do you remember what date that was?

16 A. I believe it was in 2010. I don't remember
17 the exact date.

18 Q. And it was Phil Kenner that approached you?

19 A. Yes, it was.

20 Q. When did you learn that the property was
21 sold?

22 A. I learned the property was sold when --
23 when I was contacted that we were having issues
24 getting our money after it was sold.

25 Q. And who contacted you?

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 14

1 A. I believe it was Phil Kenner who contacted
2 me.

3 Q. And do you remember the time frame of when
4 he contacted you?

5 A. Not exactly, no.

6 Q. You don't remember what year that might
7 have been?

8 A. No.

9 Q. And how did he contact you? Did he talk to
10 you in person?

11 A. By phone.

12 Q. He called you on the phone or did you call
13 him?

14 A. I probably called him -- I -- not probably.
15 I called him, and it was just on an update to see how
16 things were going.

17 Q. And did you talk to him more than once
18 about the sale of the house?

19 A. No. Just the one time.

20 Q. And what did he tell you during that time,
21 during that phone call?

22 A. He informed me that there was some issues
23 with the funds being released and that Tom Baker would
24 be handling the proceedings with trying to acquire my
25 funds back.

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 15

1 Q. Did he explain what the problem was with
2 getting your funds out of the house?

3 A. Not in great detail. Just that -- my
4 understanding was that when the promissory note was
5 signed by John Kaiser, that seven days after the house
6 was sold, that I would be receiving my funds, and
7 obviously, I didn't, so --

8 Q. So it occurred sometime after the house
9 sold --

10 A. Yeah.

11 Q. -- that he called you?

12 A. I had called him about -- probably about
13 another matter, and he was just updating me.

14 Q. So you didn't specifically call to ask him
15 where your money was?

16 A. Not specifically, no.

17 Q. And did he explain anything else to you
18 about the money and the house?

19 A. No.

20 Q. He just told you that there was an issue
21 with it?

22 A. Correct.

23 Q. And you weren't curious about what these
24 issues were?

25 A. Well, obviously, I was curious, yes.

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 16

1 Q. So did you ask him any questions?

2 A. I asked him where my money was.

3 Q. And his response was?

4 A. That it was -- it was tied up due to legal
5 issues.

6 Q. Did he explain what those legal issues
7 were?

8 A. He probably went into some detail. I just
9 don't recollect that.

10 Q. So you signed the note -- or you have this
11 note from sometime in 2010, and the first time that
12 you followed up to find out where the money was, was
13 in 2013; is that fair?

14 A. Yes.

15 Q. So you didn't wonder, in the meantime,
16 where that money was?

17 A. No, I mean, I'd had conversations
18 throughout the -- you know, they were trying to sell
19 the house and it hadn't sold. You know, there was
20 obviously the market crash here in Phoenix, so they
21 were trying to get the most for the house that they
22 could and I was getting updated on that periodically.

23 Q. And who gave you those updates?

24 A. Phil Kenner.

25 Q. Who approached you about the promissory

Kenner vs. Kaiser September 17, 2014
Deposition of William Ranford

Page 17

1 note on the house? Who had approached you about the
2 promissory note that you signed -- or that John Kaiser
3 signed?

4 A. Who approached me to -- I don't understand.

5 Q. Let me rephrase that.

6 A. Yes. Please.

7 Q. Did you ask for a promissory note before
8 you sent money --

9 A. Yes.

10 Q. -- for this property?

11 A. Yes.

12 Q. And who did you ask for that promissory
13 note? Did you ask Bryan Berard for a promissory note?

14 A. No. John Kaiser.

15 Q. So you personally asked John Kaiser for the
16 promissory note?

17 A. Yeah.

18 Q. A few minutes ago you said you'd never
19 spoken to him.

20 A. Oh. Sorry. Not personally. It was
21 through Phil Kenner.

22 Q. So you asked Phil Kenner for a promissory
23 note or did Phil Kenner offer it to you?

24 A. He offered it to me.

25 Q. So you did not ask for it?

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1 A. Not from John Kaiser directly, no. But I,
2 I -- when he approached me about the funds, to cover
3 myself personally, he suggested that a promissory note
4 be written up, and I received the promissory note from
5 John Kaiser, and that's when I signed it and sent it
6 back.

7 Q. When you say, "he" approached you to lend
8 money, could you explain what you mean by "he"?

9 A. Phil Kenner.

10 Q. So Phil Kenner approached you and suggested
11 that a promissory note would protect your interests?

12 A. Yes.

13 Q. Did you ever personally witness John Kaiser
14 sign the promissory note?

15 A. No.

16 Q. Who provided you a signed copy of that
17 promissory note?

18 A. Phil Kenner.

19 Q. Do you remember when he provided that to
20 you?

21 A. I don't recollect, no.

22 Q. Do you remember whether he would have given
23 it to you in person?

24 A. I believe it was electronically sent to me,
25 but I don't -- I couldn't find the copy of it, and he

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1 had it on file, so I received it later on from him
2 electronically.

3 Q. When you say, "electronically," do you mean
4 by email or fax?

5 A. I believe it was by fax.

6 Q. Did you ever speak with Bryan Berard about
7 loaning any money for repairs or renovations on the
8 property?

9 A. I never ever talked to Bryan Berard.

10 Q. Did you ever speak with John Kaiser
11 about --

12 A. No.

13 Q. -- loaning any money?

14 A. I've never spoken with John Kaiser.

15 Q. So you said you spoke with Phil Kenner --

16 A. Correct.

17 Q. -- exclusively about this issue?

18 A. About this project, yes.

19 Q. And you don't remember the time that you
20 spoke with him?

21 A. The exact time, no.

22 Q. Do you have an idea of what year you spoke
23 with him?

24 A. Well, it was the year that the project
25 obviously had been done, after 2010.

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1 Q. And so you spoke with him after 2010?

2 A. Yes.

3 Q. About loaning money?

4 A. Yes.

5 Q. Did he speak with you in person about
6 loaning money?

7 A. Yes.

8 Q. Did you exchange text messages with Phil
9 Kenner about loaning money?

10 A. On this particular project?

11 Q. Yes.

12 A. Not that I can recollect, no.

13 Q. Did --

14 A. Most of the dealings were by phone with
15 Phil or in person.

16 Q. So did you ever receive emails from Phil
17 Kenner about this project other than the promissory
18 note?

19 A. Not that I can recollect, no.

20 Q. And you don't remember when you spoke with
21 him in person?

22 A. Not the exact date, no.

23 Q. Do you remember where you were, which state
24 you were in?

25 A. Nope.

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1 Q. And do you remember what Phil Kenner said
2 to you about this money?

3 A. Just that they had a house that they ran
4 out of money in order to finish the project and the,
5 the proposed plan was to finish the project and resell
6 the house.

7 Q. Was there anyone else present when he spoke
8 to you about loaning some money?

9 A. Nope.

10 Q. And did you ever discuss what occurred in
11 your conversation with Phil Kenner with anyone else?

12 A. I think I might have talked to my wife
13 briefly, but I don't remember if I did or not.

14 Q. So before Phil Kenner called you -- before
15 you called Phil Kenner to discuss these other matters
16 and he brought up the issues with getting your money
17 back, you haven't had another discussion with an
18 individual about loaning money?

19 A. No.

20 Q. So did you actually loan money for the
21 repairs and renovations of this property?

22 A. Yes.

23 Q. Do you know how much you lent?

24 A. 130,000.

25 Q. All right. When did you send the money?

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1 A. I don't remember the exact date. I know I
2 have it. Obviously, I have it in my records.

3 Q. Do you know who you sent the money to?

4 A. Phil Kenner.

5 Q. Do you remember which bank account you used
6 to send the money?

7 A. I believe it was my Schwab account.

8 Q. And do you remember where -- to which of
9 Phil Kenner's bank accounts you sent the money?

10 A. I do not recollect, no.

11 Q. Did you ever speak with Bryan Berard?

12 A. I have never spoken to Bryan Berard or John
13 Kaiser. I've said that many times already.

14 Q. Did you speak with Phil Kenner after you
15 sent the money?

16 A. No.

17 Q. And you said you never received an
18 accounting of how your hundred thousand dollars was
19 used for this property?

20 A. No.

21 Q. And you never asked for an accounting?

22 A. No.

23 Q. So you weren't curious about how they were
24 spending your money?

25 A. Well, he told me he was spending the money

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1 towards upgrading the house. That's why I gave him
2 the money.

3 Q. And you never checked on that to make sure
4 that's what it was being used for?

5 A. No. I was a hockey player. I focused on
6 my hockey and Phil was my financial advisor.

7 (Deposition Exhibit No. 2 was marked for
8 identification.)

9 Q. BY MS. LAVONIER: If you could please
10 identify this document for me.

11 A. Yep.

12 Q. Could you read the top of the document,
13 please.

14 A. It's a Charles Schwab International
15 document, Schwab account of William Ranford.

16 Q. Could you read the account number for me?

17 A. 285.

18 Q. And what's that statement period?

19 A. May 1st to the 31st, 2010.

20 Q. Did you black out this information on the
21 document?

22 A. Did I personally black it out? No.

23 Q. Do you know who did that?

24 A. No, I don't.

25 Q. There's two disbursements at the bottom.

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1 Could you tell me the dates and the amounts of those
2 disbursements?

3 A. May 19th for 100,000 and May 19th for
4 30,000.

5 Q. And did you authorize these disbursements
6 from your Charles Schwab account?

7 A. Yes, I did.

8 Q. And how did you authorize these
9 disbursements? Did you call somebody by phone?

10 A. I contacted Phil Kenner, and then he had
11 the power of attorney to contact Charles Schwab to
12 have the funds released. So I did -- I believe, if I
13 remember correctly, it would have been by a faxed
14 document that I would have had to send -- sign and
15 send to Charles Schwab to have the funds released.

16 Q. So you would have faxed something and not
17 Phil Kenner?

18 A. I would have faxed something myself, yeah.

19 Q. Even though he had the power of attorney?

20 A. Yeah. If I remember correctly at that
21 time, that was the process that I had to go through
22 with Charles Schwab, is it had to be a faxed document
23 in order for them to release the funds.

24 Q. And just a minute ago you said that he --
25 Phil Kenner didn't approach you until after 2010 about

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1 loaning money for this project?

2 MR. BAKER: Objection. Misstates the
3 evidence. He said 2010, not after.

4 THE WITNESS: Correct.

5 Q. BY MS. LAVONIER: And so sometime in 2010,
6 he approached you --

7 A. Correct.

8 Q. -- about loaning money?

9 A. Yes.

10 Q. And then you disbursed this money?

11 A. Correct.

12 Q. And into Phil Kenner's account?

13 A. Correct.

14 Q. And you would have sent the authorization
15 for this disbursement?

16 A. Correct.

17 Q. Are you aware that Phil Kenner's been
18 indicted on charges in the Eastern District of
19 New York?

20 A. Yes.

21 Q. Alleging that he's been -- he's forged
22 signatures and improperly used money that was given to
23 him for other projects?

24 A. I do not know what he's indicted for. It's
25 just I knew he was.

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1 (Deposition Exhibit No. 3 was marked for
2 identification.)

3 Q. BY MS. LAVONIER: If you could please go to
4 page 7. Could you read paragraph 21, please.

5 A. In or about and between August 2002 and
6 April 2013, the defendants Phil Kenner and Tommy
7 Constantine, also known as --

8 THE COURT REPORTER: Slow down a little
9 bit, please.

10 THE WITNESS: Sorry.

11 Defendants Phil A. Kenner and Tommy C.
12 Constantine, also known as Tommy C. Hormovitis,
13 devised, implemented, supervised and executed a scheme
14 to fraudulently induce the investors, including
15 John Doe 1 through 15 and Jane Doe 1, to invest money
16 with entities and deposit money into accounts that
17 Kenner and Constantine controlled by falsely stating
18 that funds would be invested in real estate, small,
19 privately-held companies and a legal defense fund for
20 the benefit of the investors when, in truth and
21 in fact, as Kenner and Constantine then and there well
22 knew and believed, that a substantial portion of the
23 money would be improperly diverted to bank accounts
24 controlled by Kenner and Constantine and used for
25 their personal benefit, for unrelated business

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1 ventures and to conceal their scheme to defraud.

2 Q. Reading this paragraph in the Indictment,
3 does that change your thinking about how your money
4 was used, your hundred thousand dollars was used?

5 A. No.

6 Q. It doesn't make you concerned that it was
7 perhaps used for something else by Phil Kenner?

8 A. No.

9 Q. And you've -- okay.

10 And you testified a few minutes ago that
11 the Global Settlement Fund was to be used for the
12 Eufora project; is that correct?

13 A. Yes.

14 Q. Could you go to page 15, please, and read
15 paragraph 34.

16 A. It was a further part of the scheme to
17 defraud that between May 2009 and February 2010, the
18 defendants Phil A. Kenner and Tommy C. Constantine,
19 also known as Tommy C. Hormovitis, solicited many of
20 the investors to invest in what Kenner and Constantine
21 represented to be a legal defense fund known as the
22 Global Settlement Fund, hereinafter GSF. According to
23 Kenner and Constantine, the GSF would be used
24 primarily to litigate civil claims in connection with
25 the investors' real estate development investments in

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1 Mexico, which had failed.

2 Q. So Phil Kenner never told you that the
3 money was to be used in connection with litigation
4 involving the Mexico project?

5 A. He -- to my understanding, the funds were
6 for Eufora, and I think later on, he talked to me
7 about funds in, in -- towards the civil action with,
8 with the Mexico property.

9 MS. LAVONIER: I don't have any other
10 questions at this time.

11 MR. BAKER: Okay. We'll read and sign.

12 THE COURT REPORTER: Thomas, did you need a
13 copy?

14 MR. BAKER: Yeah. We'll take the condensed
15 with word index, a CD, and the electronic.

16 (Whereupon the deposition proceedings
17 concluded at 9:03 a.m.)

18

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1

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3

4

SIGNATURE OF WITNESS

5

6

I, WILLIAM RANFORD, the undersigned, say that I

7

have read the foregoing transcript of testimony taken

8

on September 17, 2014, and I declare, under penalty of

9

perjury, that the foregoing transcript is a true and

10

correct record of my testimony, with such corrections

11

and changes, if necessary, attached.

12

13

EXECUTED this day of , 2014.

14

15

16

William Ranford

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1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing proceedings were
4 taken before me; CRYSTAL BARTLOWE, Certified Reporter
5 No. 50198, in and for the State of Arizona; that the
6 witness before testifying was duly sworn by me to
7 testify to the whole truth; that the questions
8 propounded to the witness and the answers of the
9 witness thereto were taken down by me in shorthand and
10 thereafter reduced to print under my direction; that
11 the foregoing pages are a full, true, and accurate
12 record of the proceedings, all done to the best of my
13 skill and ability.

9 I CERTIFY that I am in no way related to any of
10 the parties hereto nor am I in any way interested in
11 the outcome hereof.

11 [X] Review and signature was requested.
12 [] Review and signature was waived.
13 [] Review and signature not required.

13 I CERTIFY that I have complied with the ethical
14 obligations set forth in ACJA 7-206(F)(3) and
15 ACJA 7-206 J(1)(g)(1) and (2). Dated at Phoenix,
16 Arizona, this 29th day of September 2014.

16
17 _____
18 Crystal Bartlowe, RPR
19 Certified Reporter
20 Arizona CR No. 50198

21 * * * * *

22 I CERTIFY that Bartlowe Reporting Services has
23 complied with the ethical obligations set forth in
24 ACJA 7-206 (J)(1)(g)(1) through (6).

25 _____
26 Bartlowe Reporting Services
27 Registered Reporting Firm
28 Arizona RRF No. R1063

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